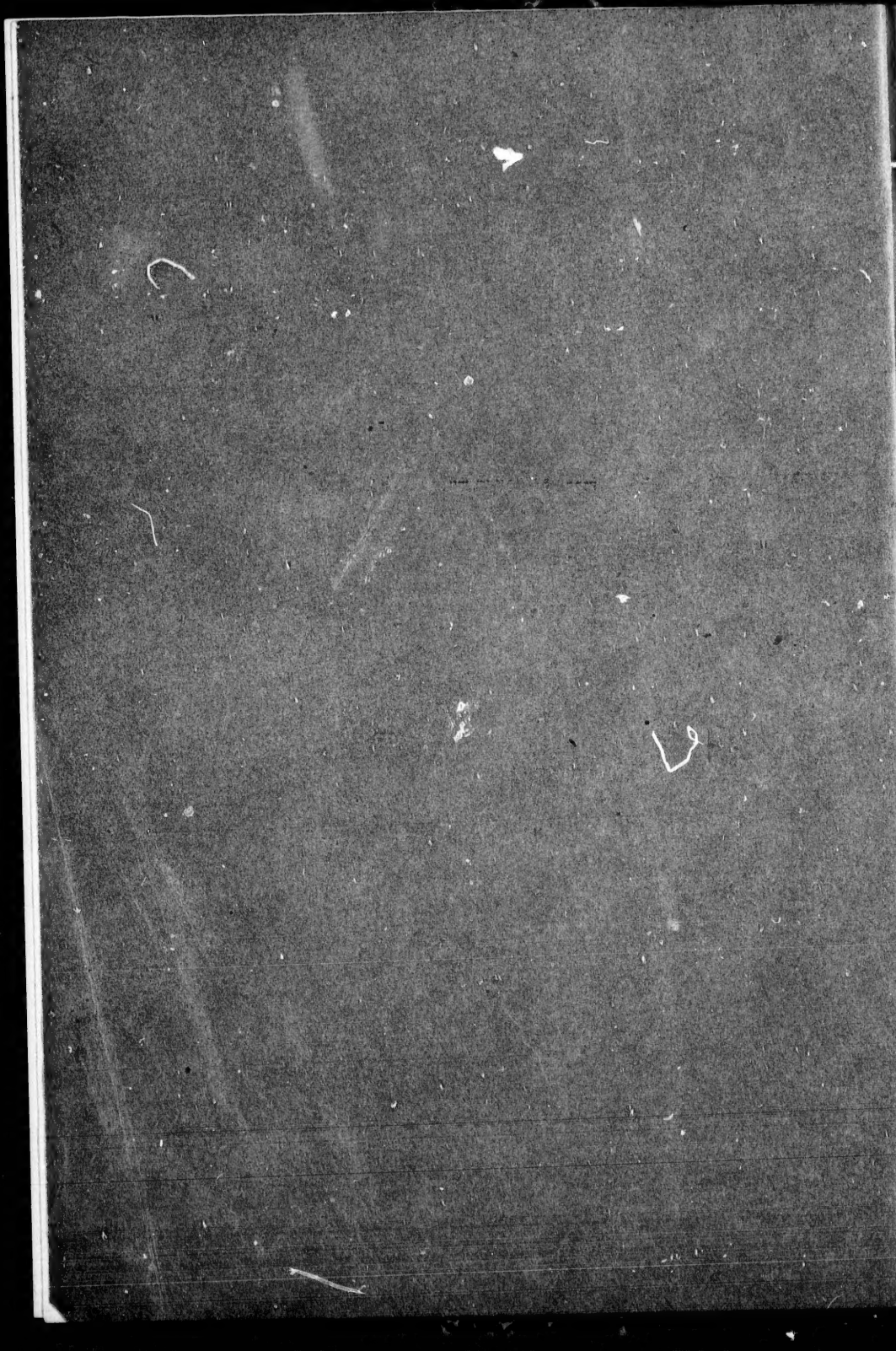
PROHIBITION AND COMPENSATION



PROHIBITION AND COMPENSATION.

While the question of prohibition has been exhaustively discussed all over the country, another question which is inseparable from its just and fair consideration has received but scanty attention, either from legislators or electors,—namely, that of *Compensation.*

The whole scheme of prohibition is founded on the principle that the rights of individuals should be made subservient to the public welfare.

It cannot be denied that the manufacture and sale of liquor are lawful rights until restrained or forbidden by the Legislature.

Why does the law restrict or take away these rights? It is not because there is anything abstractly wrong in the trade, but because the consequences of it have proved injurious to society. If no one used liquor to excess, prohibition would never have been heard of. Many persons, it is true, assert that even the moderate use of intoxicants is rather injurious than beneficial. But the same opinion is entertained in respect to tea, coffee and tobacco; and yet we never hear anything said about prohibiting these latter articles. The reason for interfering with the sale of liquor is that if it is sold without restriction, it will inevitably be used in excess, and that, when so used, it becomes a public evil. If intoxication were unknown, and liquor were used in moderation only, no attempt would be made to abolish or even restrict the right of manufacturing and selling it. Why, then, is the attempt made to restrict or take away the right of selling it, even to those who do use it in moderation only? Because it is impossible to prevent its sale to those who use it in excess, without also preventing its sale to those who use it in moderation. In other words, the rights of individuals are compelled to give way to the general good.

It would be wrong to take away those rights, if the evil could be remedied without resorting to such stringent measures. *Necessity* is the only justification. The gravity of such measures will never be lost sight of by thoughtful men. It is well described by that very able writer, Mr. Cooley, in his valuable work on "Constitutional Limitations." He observes at page 728:—

"The trade in alcoholic drinks being lawful, and the capital employed in it being "fully protected by law, the Legislature then steps in, and, by an enactment based on

"general reasons of public utility, annihilates the traffic, destroys altogether the employ-
"ment, and reduces to a nominal value the property on hand. Even the keeping of that
"for the purpose of sale becomes a criminal offence; and, without any change whatever
"in his own conduct or employment, the merchant of yesterday becomes the criminal of
"to-day, and the very building in which he lives and conducts the business, which to that
"moment was lawful, becomes the subject of legal proceedings, if the statute shall so
"declare, and liable to be proceeded against for a forfeiture. A statute which can do
"this must be justified upon the highest reasons of public benefit; but whether satisfac-
"tory or not the reasons address themselves exclusively to the legislative wisdom."

It is to that legislative wisdom that these observations are addressed.

When a brewer or distiller under the protection of law invests $20,000 in a building and machinery adapted to the manufacture of liquor, and almost worthless for any other purpose, it is not his object to sell his products to drunkards, any more than it is the object of the farmer, in selling his barley and rye, to be instrumental in causing drunkenness to which that barley and rye in all probability will ultimately contribute. His object is to sell to those who will buy. A large proportion of those who use his liquor use it in moderation, and, to that extent, his business is harmless. But, because some of those who use his productions use them in excess, and public injury is thereby caused, that portion of his business which is harmless must be taken away along with the rest, because it is impossible to separate them. But if we grant that the public good demands this, does it follow that the public good demands that the brewer or distiller should bear the loss thus caused? That is a very different matter. The property which cost him $20,000 is now worth $5,000. He has given up $15,000 for the public benefit. He has not done this voluntarily, but by compulsion of law. This sum has not been taken from him as a penalty for any offence. His business was just as lawful the day before the Act passed as that of the dry goods merchant. He had even the express license of the Government, and the expenses of the protection afforded by Government to all other lawful trades was partly paid for out of the earnings of this one which has suddenly become unlawful. The nature of the transaction is too plain to be disguised—$15,000 has been taken from the individual against his will for the public benefit. The promoters of prohibition all contend that one effect of it is to add immensely to the public wealth. Every time a brewer or hotel-keeper is impoverished by his property being rendered worthless or nearly so, the public is correspondingly enriched. On what principle have the public a right to enrich themselves at the expense of these individuals? It can only be upon the principle that once the law comes into force, it makes them criminals *ex post facto*, and their property liable to confiscation. This doctrine is one which many prohibitionists advocate and seem quite ready to father, but which no legislature ever can.

It is impossible to find any other principle which can be accepted by legislators as a true basis for this kind of law, than the very same fundamental doctrine on which is founded the right of the public to compel the owner of land to give it up for a public road or public buildings, namely, that private rights must be given up, when necessary for the public benefit. This, however, does not mean, and never from the earliest times has been construed to imply, that the public are entitled to the benefit at the expense or to the impoverishment of the individual. When the public take from a man against his will an acre of his land, and pay him the full value of it, they still deprive him of his right. His right is to keep his land. This right must be given up, because it is *necessary* for the public benefit. But it is not at all necessary that he should lose the *value* of his land. The public can, and must, pay him that, because there is no necessity to deprive him of it.

Chancellor Kent on page 339, vol. 2 of his commentaries, shortly states the universal rule of law in these words :—

"The settled and fundamental doctrine is that Government has no right to take "private property for public purposes, without giving just compensation."

It may be said that the property of the distiller, the brewer, or the hotel-keeper is not *taken* by Government. Literally speaking, this is true. Government does not take away the property ; it only takes away the object of its existence. It merely says, "You "must not use this property for the only purpose for which it is of any use." A similar argument, though not quite so untenable as this, has been used by Railway Companies in appropriating lands for the construction of their lines. They have said : "For the land "we actually take we are bound to pay, but for land which we only injure and depre- "ciate in value, we are not bound to pay anything." In a number of the American States this contention, unjust as it is upon the face of it, has found favor with the Courts. It is, however, condemned in clear language by an American legal author of eminence, Mr. Sedgwick, who, on page 462 of his work on Statutory and Constitutional Law, after stating the decisions of the Courts in Maine, Pennsylvania, Massachusetts, and Connecticut, proceeds as follows :—

"In Vermont, too, the course is to limit the compensation to damages sustained by "the actual taking of property. All other loss sustained by individuals comes under the "head of *damnum absque injuria*, or under the head of sacrifices which individuals must "bear for the common benefit."

"To differ from the voice of so many learned and sagacious magistrates, may almost "wear the aspect of presumption ; but I cannot refrain from the expression of the opinion "that this limitation of the term '*taking*' to the actual physical appropriation of prop-

"erty, or a divesting of the title, is, it seems to me, far too narrow a construction to "answer the purposes of justice, or to meet the demands of an equal administration of "the great powers of Government."

"The tendency under our system is too often to sacrifice the individual to the "community, and it seems very difficult, in reason, to show why the State should not pay "for property of which it *destroys* or *impairs* the value, as well as for what it physically "takes. If, by reason of a *consequential* damage, the *value* of real estate is positively "*diminished*, it does not appear arduous to prove that in point of fact the owner is *deprived* "*of property*, though no particular piece of property may be actually taken."

When we observe the narrow construction placed by the States referred to upon the broad and comprehensive rule laid down by Chancellor Kent, we cannot wonder that those of them which have adopted prohibitory laws have failed to provide a scheme of compensation. A due regard for consistency precluded them from doing so. The Parliament of Canada, however, avoiding the tendency condemned by Mr. Sedgwick, has clearly provided by its Railway Acts, that companies shall pay compensation, not only for land they actually take, but also for land the value of which they depreciate. A like due regard for consistency, therefore, will constrain this Parliament to depart from the American doctrine, in the one case as it has already done in the other, and to place upon the same fundamental rule of law the same equitable and enlightened construction in regard to one class of claims which it has placed upon it in regard to another class.

When the British Government abolished slavery in the West Indies, much as the scheme was criticized in its details, the strongest opponents of the Government did not question the justice and propriety of paying compensation to the slave owners. In the United States none was paid, because abolition with them was a war measure, just the same as the confiscation of any other property, or any other step thought expedient for the defeat of the enemy. Doubtless this confiscation now under discussion is also regarded by its advocates as a war measure; but that warfare is a moral one. The Government of Canada has no war with those lawfully engaged in the liquor trade. It will be remembered in this connection that three years before the famous thirteenth amendment was passed by the United States, a proposition was made to the loyal slave States for the abolition of slavery *on the basis of compensation* by the Federal Government, and was rejected. But how much weaker was the claim for compensation in the case of slavery than in the present case! The liquor trade is attacked on account of its *consequences*. Slavery on the other hand was founded on a *false principle*, and was wrong and wicked in its very essence. True the property in slaves had been recognized and protected by law, but not more so than the property and traffic in liquor, and there is this difference between the two, that the liquor trade, like the grain trade, being inherently lawful, requires no legislative sanction to authorize it; while the slave trade, based on the false

and monstrous assertion by man of property in man, was inherently unlawful, and to legalize it was *ultra vires* of any human legislature.

It may be said that in various trades and manufactures valuable property may at any time be in like manner depreciated by the action of the Government in altering the tariff, but that it would be an unheard of thing to compensate the owners of such property. The radical difference between the two cases is that, in regard to the tariff, the Government, in establishing a protective duty, confers a benefit which it is not bound to confer upon the trader or manufacturer interested, and is not bound to continue that benefit any longer than appears consistent with the public interests. It never was a right; and the power which created it had authority to abolish it. There is a vast difference between doing that, and taking away a right it never created, but which existed independently of it.

This Act has been adjudged by our Court of last resort to be a valid and constitutional one. While bowing to that decision we may still be permitted to doubt whether the mode provided for bringing it into force is such as our constitution contemplated. In the case of *Russell vs. The Queen* one ground of attack upon the Act was that it relates to a matter of merely local concern, and was therefore within the legislative domain of the Provinces, and not of the Dominion. But it was held that the object being for the furtherance of temperance morality and public order, it was general and not local in its nature. Another ground of objection was that the Act involves an improper delegation by Parliament to others of its legislative powers. But it was held that there is no delegation of legislative functions; that, although the intervention of the electors is required to bring the Act in force, yet the Act of legislation is performed by Parliament. No one, however, will deny that Parliament does delegate to the electors the decision of the question whether the Act shall be brought into force in any particular county or not.

The Supreme Court of Canada, in upholding the validity of the Act in the case of the *City of Fredericton vs. The Queen* based the power of Parliament to pass it mainly upon the authority conferred upon it by the B. N. A. Act to legislate for the regulation of trade and commerce. The Judicial Committee of the Privy Council seem to have preferred to base it upon the power conferred upon Parliament to legislate for the peace, order, and good government of Canada. Certainly in view of the motives actuating the promoters of it, and the avowed object contained in the preamble, the Act appears to have more affinity with peace, order and good government, than with trade and commerce. It is rather a movement of temperance reform than of trade reform. Did, then, the Parliament of Canada enact this law because it decided that the provisions therein contained for the prohibition or restriction of the liquor traffic were necessary for the peace, order and good government of Canada? No. It only decided that it was expedient to allow those provisions to be put in operation in any county, if the electors of that county should decide it to be necessary for the peace, order and good Government of that county.

Now, if Parliament has a just right to delegate this decision, that right must surely be subject to two conditions:—

1st. That the electors to whom the delegation is made embrace all those electors who are directly affected by the decision.

2nd. That the decision of the question must be delegated in such a manner that it may be decided upon its merits.

As to the first of these conditions, legislation of this kind was entrusted to the Parliament of Canada; and if that body exercised its judgment, and rendered its decision upon the question, whether it did so in reference to the whole of Canada, or only a single County it would equally be acting on behalf of, and with authority from all those interested in or affected by, that decision, because it represents the whole people of Canada. But if Parliament does not desire to exercise its own judgment or give its own decision, but to surrender or delegate that decision, it must surely surrender it to all, and not a part only, of those on whose behalf it would have acted in deciding, if it had chosen to decide at all, in order that they may determine the question for themselves; or at least it must delegate the decision to all and not a part only, of those electors who will be directly affected by it. But do the electors of any County embrace all the electors who are directly affected by the bringing of the Act into force in that County; and will the majority of the electors of that County necessarily form the majority of those electors who are thus affected, and will the majority of the votes which may be cast necessarily constitute a majority of the votes which would be cast, if all the electors affected by the decision were electors of that particular County? By no means. Instances can easily be given which show the contrary. Take the case which often occurs of a hotel situated in a very thinly settled locality but on a leading road frequented by travellers between two centres of population. It depends upon this through travel for its support, and affects, and is affected by, the few people living in its vicinity to an almost inappreciable extent. The fate of this hotel may be decided by the passing of the Act in the County where it is situate. At all events those who will be affected by the operation of the Act upon its business are mainly, besides the hotel keeper himself, the travelling public, many of whom are electors of other Counties, but not of this one, and who therefore have no voice in the decision of the question which thus affects them. Take again the case of a hotel standing near the boundary between two Counties. The County in which it is situate may have passed the Act, and the adjoining one may have refused to do so. The great majority of those who live near this hotel may be residents of the latter County, and have votes there, but not in the other. In that case the majority of those electors who are affected by this hotel and its business may very probably be electors who have no voice in and are opposed to a decision which may have the effect of closing that hotel. Other instances of a similar nature might be given, and those which have been given may occur in several different localities in the

same county. It seems quite clear, then, that the decision of the question whether the act shall be brought into force in any county, is delegated to some only, and not to all of the electors who are directly affected by it. Parliament, in desiring to relieve itself from the decision of the question whether the public good demanded this interference with private rights, intended to substitute for the exercise of its own judgment, the reliable guarantee which would be afforded by a majority of the votes of all the electors affected by the decision, who chose to vote. It is now seen that the machinery provided fails to secure any such guarantee; and a little consideration will convince any impartial mind that any system will fail to do so which admits of one county having the law in force within its own limits, and yet being surrounded on all sides by counties which have it not. It may be said that many things which are done within the limits of a particular county more or less affect the electors of other counties, such as the construction, maintenance or closing of roads which may be used by the electors of other counties who yet have no voice in regard to them. The answer is, that these are purely local matters, attached to the territorial limits of the county; whereas, the very existenc of this act was only preserved by establishing the proposition that its subject matter is in no sense local, but, on the contrary, of general and national application and concern. If this be true, where is the consistency in allowing a vote upon the question to a man who lives on one side of a road or creek, and refusing it to another man, equally, or perhaps more interested, who lives on the other side, simply because that road or creek happens to be a boundary line between one county and another.

If, then, such a defect as this necessarily exists in the manner provided for bringing the Act into operation, is it too much to ask that, as some of those who should have votes in the matter are allowed none, a larger proportion of those votes which are receivable should be insisted on? Or would it be unreasonable for Government to say that, as it is uncertain whether the injury done to private property is really necessary for the public good, because it is uncertain whether a majority of those who were fairly entitled to express an opinion, and would have done so if they had been allowed, have pronounced it to be so, therefore compensation shall be paid for the injury to private rights which may possibly have been done, without that public necessity that alone could justify it? This, of course, would not be the logical remedy. That would be of a much more sweeping nature. But it would be at least a nearer approach to what is fair and just.

Then, as to the second condition, is the question submitted to the electors in such a way as to enable them to decide it upon its merits? It appears to have been intended that the principle should be affirmed by the electors, and the details provided for by Parliament. The principle involves two questions.—1st. Shall private rights be thus interfered with for the public benefit? 2nd. Shall compensation be paid for the injury which will result to private property?

Now this second question has certainly not been submitted to the electors. Was it decided by Parliament itself? We can see no trace of this. It was never discussed in the House. Being unable to suppose that Parliament decided the question without discussing it, we are compelled to conclude that it was left out of consideration altogether. Yet, however, men may differ in their answers to this question, no reasonable man will deny that it is an important element in the problem of prohibitory legislation, and one which demands a decision one way or the other. The only explanation which occurs to us of this curious omission is that, knowing the measure was to be brought into force, not by Parliament, but by the electors, the consideration of it was not approached by the members with the same sense of responsibility they would otherwise have felt. That it was simply overlooked seems to be borne out by the fact that Parliament, while not deciding the question itself, did not even leave it to be decided by the electors. It cannot be supposed that Parliament, having delegated to the electors of any particular county the decision of the one question which, we have seen, affects the interests of others besides themselves, deliberately withheld from them the decision of the other questions which affects themselves alone, namely, whether they should impose upon themselves the burden of paying the compensation which, for all that Parliament could tell, they might be perfectly willing and might even consider it their duty to pay.

What, then, is the result of this omission? Many fair minded men who believe in prohibition, yet feel so strongly the injustice of refusing compensation, that they vote against the Act which in other respects they approve. Others again of similar views who cannot make up their minds to vote against the principle which they advocate, and yet are unable conscientiously to vote for the Act with the principle of compensation left out, refrain from voting at all. In some counties the smallness of the vote polled is pointed at as an evidence of the apathy of the people on this subject. May it not be very probable that this state of things is due, not so much to apathy, as to the fact that, owing to the defective manner in which the question is submitted to the electors, many of them cannot, by their votes, support their convictions as advocates of prohibition, without doing violence to their consciences as honest men?

Against this it may be said that in its present shape the Act in a large proportion of those counties where it has been submitted has obtained the majority of votes, and that many who now vote for it would vote against it, if compensation were annexed as an indispensable condition, and it might in that way be defeated altogether. Let us examine this view of the matter. Of course, the extent to which property will be depreciated, is a matter for evidence hereafter, but for the purpose of this discussion we shall probably not be far astray if we suppose the average depreciation throughout the Province of Ontario to be fifty per cent. of the assessed value, so far as hotel property is concerned. From a careful investigation made at a large expense it has been ascertained that the average assessed value of 2,520 taverns out of 3,292, the total number licensed in Ontario

for the years 1882-3, was $2,900. Assuming the remaining taverns to be of the same average value, which is only reasonable, the total assessment of hotel property throughout Ontario is say $10,000,000.

It is well known that the assessment of properties throughout Ontario is, as a rule, only from one-third to one-half of their actual value. In cities, notably in Toronto, it is somewhat higher. A fair average would probably be about one-half for the whole province. Now, assume the depreciation in the value of these properties to be one-half of their assessment value. If this turns out to be a large estimate, so much the better for all parties concerned. Then the total amount to be raised to pay off the loss caused by this depreciation would be $5,000,000, which extended over a period of twenty years, with interest at 5 per cent., would require the raising of an annual sum of $401,500. As the total assessed value of property in Ontario is $650,000,000, the rate which would be necessary to meet this annual sum would be ·617 of a mill on the dollar. To put the matter in another way, as the total population of Ontario by the last census was near two millions, the rate required would be 20 cents per head.

Then let us take a single county by itself—say the County of Carleton. The number of hotel-keepers in that county, according to the License Inspector's returns for the year 1883, was 40. The total assessment of their property was, as shown by the returns from the municipal clerks, $36,920. The total assessment of the county was $8,094,240.

The amount of depreciation computed on the same basis as above would be $18,460.

Now, to raise that sum by debentures, payable in equal instalments of principal and interest during a period of 20 years, with interest at 5 per cent., would require the annual sum of $1,481, which would involve a rate of ·18 of a mill in the dollar on the total assessment of the county. A fair average assessment for a farmer in that county would probably be about $1,250, farm property not being assessed as a rule higher than about one-third of its value. A farmer whose property was assessed for that amount would thus have to pay 25 cents every year for 20 years.

Shall we be asked to believe that any man who sincerely desires prohibition would vote against the Act rather than submit to such a burden as that? This whole movement takes its rise from a desire for moral reform. Many wise and earnest advocates of total abstinence believe that the combat should be confined to the moral arena. No doctrine is more frequently preached than the duty of moderate drinkers to voluntarily abstain as an act of self-denial incumbent on them for the good of weaker men, who are led by their example to indulge in liquor, while lacking the strength to imitate their moderation. The strongest supporters of the Act admit the serious character of the task involved in its enforcement after it is passed, and the most experienced and practical among them agree that it is a very vital point to have the moral sense of the people in

its favour. A moral sense sufficiently keen to be of any assistance in the enforcement of the Act involves self-denial. In the excitement of a campaign, and the enthusiasm of public meetings it may be easy to express noble sentiments and assert heroic resolves. But after the Act is carried, and the excitement has cooled down, it will require an effort of self-denial for private individuals to render assistance in the every-day enforcement of the law, without which assistance, experience shows, such enforcement is impossible. Revolutions are too often marked by plunder and spoliation, but true reforms are always dignified by the contrary features of self-denial and self-sacrifice. Then surely we shall not be told that this measure is being carried by the votes of men who, not desiring to indulge in the use of liquor themselves, aim at bringing about general abstinence through the self-denial of others now using it in moderation, and by the legal injury of other men's property, but who, the moment it is proposed that they themselves, even to the trifling extent above indicated, shall participate in the self-denial which they preach, will abandon the principle they have been advocating! If this were true, it would be unjust that rights of property should be left exposed to the mercy of men of that stamp. It would be much better in the interests of temperance itself, that the Act should be defeated by the defection than carried by the assistance of those men. It would be the strongest proof that the moral sense of the community was not such as to afford the Act any promise of that support, without which the most earnest efforts to enforce it would be vain; and no time should be lost in making any amendment necessary to relieve it from the dangerous possession of such false and hypocritical friends. Candour, however, compels the expression of the belief that no such assertion can be truly made of any county in the Dominion.

Nothing in these remarks is intended as a suggestion that it should be left to the electors to determine whether compensation shall be made or not. Depending as it does upon an immutable and universal principle of law, it must be decided in the same way for the whole Dominion, and by that body which legislates for the country at large. If compensation is a right at all, as we think has been clearly shown, it is a fundamental right which it would be absurd to recognize in one county, and ignore in another governed by the same general laws.

Apart from the question of right, compensation must commend itself to the judgment *as a matter of policy*. Viewed in this light also it is not an inappropriate subject of discussion here, because it concerns the whole public, and not merely the advocates of prohibition, that all our laws should be so framed, as to be capable of enforcement after they are passed. To have such an Act upon the Statute book, and not be able to enforce it, deprives its promoters of the only justification which they could plead for their interference with private rights—namely, the public benefit. Instead of a benefit, it becomes a positive injury to the public. The spectacle of a law requiring a standing army of

officials specially for its enforcement, involving constant war with one of the most dangerous elements of society, a proscribed class of professional law-breakers, in which resort is had, on the one side to the often questionable wiles of the paid detective, and, on the other side, to all the resources of fraud, and deceit, and all the desperate devices of perjury brought to perfection by every day practice, for the evasion of the law, *and successfully evading it*, is one of the most demoralizing which any civilized country can present. It means much more than the failure of that particular Act. It implies the breeding of contempt for all law, and a gradual sapping of the foundations upon which the safety of society rests. To take away these rights for the public benefit, even though compensation be made for property injured, involves a certain amount of loss, against which, however, it is only fair to place the share which the losers will have in the promised benefit to the public. But if we suppose the principle of compensation repudiated, and the Act carried without it, and proving a failure, as in many places, if history lies not, such measures have proved, what will be the limit of the responsibility of those who have taken away those rights, and sacrificed that property, not for the public benefit, but for the public injury? As in the case of political revolution, so in this case, no matter how crying the evil to be redressed, the consequences of failure are so serious, that the almost absolute assurance of success is required to justify the attempt. Now one of the chief grounds taken against the liquor trade is, that it produces crime. This cannot be denied, but in what way does it produce crime? No doubt it does so in some cases directly by the immediate effect produced by intoxication upon the faculties. But to a very large extent the crime resulting from the excessive use of liquor is produced through the intermediate stage of poverty. Crime it is true, is often the cause of poverty; but just as truly, and much more commonly is poverty the cause of crime. And so it is justly argued that abstinence from liquor, whether voluntary or enforced, will not only abolish entirely the crime directly resulting from intoxication, but also much of that which results from poverty, inasmuch as a large proportion of the poverty in the world is brought about by the excessive use of liquor. Apply this argument to the question in hand. Although we have supposed a depreciation in hotel property of only 50 per cent. of assessed value, yet this means a total destruction of the property in nine cases out of ten, so far as the owner is concerned, because this shrunken value is now barely sufficient, in many cases insufficient, to pay the mortgage upon it. Add to this the loss of his occupation, and means of livelihood for himself and family, and you have made a pauper of him. The direct operation of the Act upon him tends to make him a criminal. He feels that he has been oppressed, and bitter hatred, and a desire for revenge—fruitful sources of crime—rankle in his breast. You have treated him as if he were a criminal; and he feels justified in keeping up the character. Thus you have raised up a desperate class of sworn enemies, to law and to society. But apart from this, the very state of poverty he is left in affords him no alternative between violating the law and allowing his family to starve.

Here, then, we have a law aiming at the abolition of crime by the prohibition of a traffic, which directly and indirectly causes that crime, actually producing crime by its own operation in the very same direct and indirect modes attributed to the traffic it prohibits. Moreover, as every sale of liquor implies a purchaser, and every violation of the law a corresponding want of success in enforcing it, it follows that the more of the one kind of crime it creates the less of the other kind has it abolished.

But, further, the advocates of prohibition fairly contend that the disastrous effect of the excessive use of liquor in producing poverty does not end with the mere impoverishment of these individuals and their families, but that it also deprives the country of a source of wealth which would accrue to it from the industry of those whose energies are now paralysed by drink. How much wiser, then, would it be to devote the money which would otherwise be required for the detection, prosecution and imprisonment of these offenders, to the payment of a reasonable compensation, such as would enable them to embark in some lawful occupation, and thus at the same time remove the most dangerous obstruction to the successful working of the Act, and change a source of national poverty into an element of public wealth. As a mere matter of money, then, is it not reasonable to expect that this policy of compensation is one which will *pay for itself?*

Nor must it be forgotten that many others besides these persons themselves will be more directly affected than the public in general. Merchants, money lenders, and others have had transactions with them on the faith that they were dealing with men whose rights and property, like their own, were respected by the law. When the claims of these creditors are swept away in the general ruin, their enthusiasm and moral support are not likely to be enlisted on the side of a policy which thus involves injury, and loss to those who on no theory can be held to have deserved it.

Add to these another class, and not a small one, comprising those who have no very strong convictions on the prohibition question, but who take an intelligent interest in all that concerns the welfare of society, and would be ready to give their influence to encourage the experiment, if they saw good reasons to believe it to be a safe and practicable one. Not being men of extreme views, however, they see only injustice in the injury of private property without compensation, which zealous prohibitionists regard as a well-merited punishment upon those who have been engaged in a reprehensible occupation. These men, if they do not actually take sides against the adoption of the Act, will look coldly upon all proceedings to enforce what they deem in that respect an oppressive law. In this way, the moral support of a class of men, whose influence is not to be despised, because it is not loudly exerted, will be estranged. Deprived of the support of men of moderate views, the Act will be left exposed to the odious charge of having to depend for its enforcement upon the exertions of extreme partizans, who may be supposed to be actuated more by a desire for the triumph of their own opinions, than by a spirit of impartial justice.

On the whole, then, in view of the public injury which would result from the trial, and failure of the experiment, it is the clear duty of Parliament to annex to that trial a condition which cannot endanger, and which there is so much reason to believe will greatly contribute to its success, and which, if it do not make the experiment successful, will at least prevent it from being unjust.

If it be suggested that advice in regard to policy must be regarded with distrust, when coming in the form of a plea for those who are naturally opposed to the principle, we answer, firstly that the important question is whether the arguments here used are sound, and not from what source they come; and secondly, that to the large mass of those on whose behalf they are urged, the *failure* of the experiment could bring but little satisfaction, since the mere *trial* of it will be quite sufficient to ruin them. They are shrewd enough to see that it would be far more to their interest, in consideration of reasonable compensation, to withdraw all opposition to the Act, and even give bonds not to violate it, than to cling to the hope, first of defeating it, and, failing that, then of evading its provisions.

It is sometimes remarked that those at all events who have engaged in the traffic since the Act was passed by Parliament have no equity in this matter, because they invested their means with their eyes open, knowing that the electorate were clothed with authority to bring the Act into force at any time they chose. But this argument might just as well be extended to those who embarked in the business before the Statute was enacted at all, because they knew perfectly well that Parliament had power to pass such an Act at any time it might see fit to do so. Besides, such a contention does violence to the elective principle on which the Act is based. If the mere existence of the Act upon the Statute book should deter persons from entering into the business, and could be used as an argument to defeat claims otherwise valid, then it would practically to some extent be brought into operation without consulting, and possibly against the will of, the electors, although the Parliament which enacted it expressly declared that it should not come into force without the electoral consent.

For these reasons it is urged that the Act calls loudly for immediate amendment in the following respects.

1st. By providing that every Municipality which adopts the Act shall make provisions for raising and paying a fair compensation to all hotel or tavern keepers within its limits, for the depreciation in value of their property caused by such adoption, some proper mode to be prescribed for determining the fact of the depreciation and the amount which should be paid.

2nd. By providing for the ultimate compensation of the manufacturers of liquors, that an estimate shall be made of the value of their property now devoted to the purpose

of manufacturing and no further licenses for such manufacture to be granted. It is proposed that the total value of these properties shall be distributed over the various municipalities in Canada, in proportion to their respective populations, wherever a municipality adopts the act, it shall provide for the raising of its share of the general value, which amount shall be deposited with the Government, and the interest thereon distributed amongst these municipalities in proportion to the amount which they can show the property within their limits has been effected by the adoption of the act therein. When eventually the Scott Act becomes generally adopted (if that shall take place) and it is decided to introduce prohibition properly so called, those municipalities which have not then contributed their share, shall forthwith contribute the same which shall be applied by the Government in liquidation of the loss sustained by the various municipalities.

3rd. By providing that the Act shall not come into force in any municipality, unless a majority of those entitled to vote are in its favor.

4th. If, however, the second amendment be found impracticable, or is too cumbersome, then a general prohibitory law, with provision for compensation to the manufacturer as well as the tavern-keeper should be passed, to come into force if sustained by a vote of the people taken over the whole Dominion on a day to be fixed in a similar manner to that provided by the Canada Temperance Act, which Act shall be suspended in the meantime, except where it has already come in force.

NOTE.—THE PUBLISHER.

Appended hereto is a table which has been prepared at a large expense, shewing approximately the assessed value of the taverns in the various municipalities in the Province of Ontario.

Those who are familiar with other provinces will be able from this to form some idea of the value of similar property in the rest of the Dominion. The method adopted to obtain the results below was as follows: A schedule was sent to every License Inspector in the Province, with the request that he should fill in the names and address of every tavern licensee in his district, and return with a certificate of its correctness in memo of his fees or charges therefor. Answers were received from all except those mentioned below.

The assessment of the real estate occupied by these tavern-keepers was then ascertained from the town or township clerks of these respective municipalities. The result of the investigation was that, while by the last Ontario Government report obtainable, that of 1882-3, there appear to have been licensed 3,292 taverns; the assessment of 2,520 was obtained, shewing an average assessment of $2,830.25. Assuming the total number of licensed hotels in the province to be the same as in that year, by multiplying the average value into it, we have approximately the total assessed value of the taverns in the prov-

ince, viz., say $9,320,000, while the total assessment of the province for municipal purposes is, say, $650,000,000. Now, it is submitted that the depreciation of tavern property in country municipalities would average 50 per cent., except that in some where there are valuable hotel properties, as in Welland and Lincoln the depreciation would not probably exceed 25 per cent,—while in cities where tavern buildings may be more readily turned to other purposes than in the country, the depreciation would not, it is thought, exceed 25 per cent. on an average.

As this, however, is a matter of opinion upon which a diversity of views may be entertained, it was thought best to calculate what rate would have to be struck in each municipality to raise the *whole assessed* value by debentures, payable in equal instalments of principal and interest, during a period of 20 years, with interest at 5 per cent.

Of course, it is not supposed that the depreciation would equal this in any instance, but it will enable every one, competent to form an opinion, readily to determine what the rate would have to be. In some cases, viz., Oxford, Perth, Renfrew, Simcoe, York and Elgin, the License Inspector for one part of the county reported, but the License Inspector of the other part did not. In such cases the average value of the hotel property in the part of the county not heard from has been assumed to be the same as in that part heard from, and as the number of licenses granted is known from the Ontario Government report, we have a means of determining approximately the assessed value of the taverns where the License Inspectors have not reported.

Outside of the cities the average value of taverns in the different municipalities has not been found to differ greatly—and is about $2,200.

County or City.	No. of Hotels for which assessments received.	No. hotels reported by inspectrs.	Total assessments of hotels received.	Total assessm'ts of hotels reported by inspector at average of hotels received.	Total assessments of County or City.	Rate in mills necessary to extinguish the total assessment in 20 yrs. with debentures at 5 per cent.
Brant (including Brantford)..	50	53	160,700	170,642	14,300,445	·95
Brockville, Leeds and Grenville	89	91	315,383	322,466	13,796,806	1·87
Dufferin.....	34	35	69,070	71,401	5,101,513	1·12
Durham.....	49	50	115,300	117,647	27,009,280	·818
Northumberland...	52	52	157,950	15? 950		
Haldimand.....	37	37	58,745	58,745	8,365,569	·56
Middlesex.....	168	125	152,695	176,719	25,810,390	·548
Norfolk.....	50	51	102,465	104,514	9,975,789	·84
Ontario	66	67	173,690	176,321	19,379,544	·648
Peterboro.....	44	45	157,293	160,867	10,975.392	1·23
Welland and Niagara.....	81	90	247,236	274,654	10,073,649	2·2
London.....	47	48	349,100	401,464	11,179,816	2·88
Toronto	222	222	1,525,738	1,525,738	68,928,277	1·77
Essex	64	70	188,232	205,878	8,314,819	1·98
Hastings (includ. Belleville.)	96	102	259,535	275,756	14,840,688	1·40

County or City.	No. of Hotels for which assessments received.	No. hotels reported by inspect'rs.	Total assessments of hotels received.	Total assessm'ts of hotels reported by inspector at average of hotels received.	Total assessments of County or City.	Rate in mills necessary to extinguish the total assessment in 20 yrs. with debentures at 5 per cent.
Huron	101	117	235,618	272,943	29,770,095	·73
Lambton	66	75	155,665	176,892	15,397,502	·92
Prescott	37	44	42,500	50,540	4,804,845	1·32
Russell	29	37	22,600	28,845		
Victoria	52	60	135,920	156,830	10,660,189	1·13
Haliburton					451,721	
Wentworth	49	55	96,650	108,484	12,988,567	·67
Carleton	35	40	36,920	42,394	8,094,240	·42
Halton	39	39	73,900	73,900	9,427,620	·62
Peel	38	36	71,700	67,926	10,695,272	·51
Lennox & Addington	56	68	85,521	103,847	7,909,104	1·05
Kent	67	75	224,030	250,779	16,521,152	1·29
Bruce	77	99	186,645	233,896	21,735,090	·86
Grey	78	90	188,439	217,429	15,527,691	1·12
Wellington	100	98	186,620	182,888	16,982,748	·86
Waterloo	74	90	179,372	208,448	13,082,084	1·33
Guelph	18	18	114,920	114,920	2,969.940	·31
Hamilton	99	104	447,220	469,797	17,713,150	2·12
St. Catharines	33	33	149,000	149,000	4,621,358	2·58
Lincoln	37	37	81,500	81,500	5,872,570	1·11
Lanark	31	37	102,640	122,479	7,660,730	1·28
Cardwell	22	40	34,960	63,440	Included in Peel, Dufferin and Simcoe.	
Muskoka	32	50	53,302	85,970		
Nippissing	8	5	19,875	12,420		
Oxford, S	32	31	89,125	86,340	24,520,133	·6
" N	36	36	97,128	97,128		
Perth, S	41	40	127,635	124,522	22,488,181	1·15
" N	64	64	199,202	199,232		
Renfrew, N	22	23	36,659	38,325	4,184,127	1·37
" S	20	20	33,320	33,320		
Simcoe, E. and S	73	69	139,590	131,928	17,739,900	1·05
" W	53	53	101,336	101,336		
York, E. and N	94	81	167,925	143,666	28,259,825	·6
" W	39	39	69,654	69,654		
Elgin, W	24	27	38,895	43,740	14,023,032	·71
" E	50	50	81,000	81,000		
Dundas and Glengarry	54	54	88,076	88,076	14,995,959	·9
Stormont not received	14	14	.....	.....	.....	.....
	2,782	3,086	$8,272,164	$8,734,161	$607,148,802	
Average of each hotel	.....	.....	.....	$2,830.25		
Not heard from.						
Ottawa	.....	.....	.....	.....	10,697,465	
Kingston	.....	.....	.....	.....	5,515,505	
Frontenac	.....	.....	.....	.....	5,022,408	
Prince Edward	.....	.....	.....	.....	7,290,428	
Algoma	.....	.....	.....	.....	.....	
Cornwall	.....	.....	.....	.....	.....	
Thunder Bay	.....	.....	.....	.....	.....	
					$635,674,608	
Average of rural hotels alone	.....	.....	.....	$2,254		

There was collected in Ontario in the year 1882–83, from Licenses, $435,1[illegible]1.87.

The salaries of Inspectors' and Commissioners' expenses, $47,965.74.

Proportion of Revenue derived by Muncipalities, $284,379.79.

The assessed value of real estate, buildings and plant, used in the manufacture of malt, beer and spirits, in Ontario and Quebec is between three and four millions. Estitimated value seven millions.

Revenue derived by Dominion Government from wine, beer, and spirits, about six millions.